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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-first session

SUMMARY RECORD OF THE 1551st MEETING

Held at the Palais des Nations, Geneva,
on Friday, 23 August 2002, at 10 a.m.

Chairman: Mr. DIACONU

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The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Draft concluding observations concerning the sixth to fourteenth periodic reports of Botswana (CERD/C/60/Misc.15/Rev.1)

1. The CHAIRMAN invited the Committee to make drafting proposals, paragraph by paragraph, on the draft concluding observations concerning the sixth to fourteenth periodic reports of Botswana.

Paragraphs 1 to 4

2. Paragraphs 1 to 4 were adopted.

Paragraphs 5 and 6

3. Paragraphs 5 and 6 were adopted with minor drafting changes.

Paragraph 7

4. The CHAIRMAN said that the central issue was not whether Botswana's Constitution and laws had anticipated the Convention, but whether they were in conformity with it. The last sentence should therefore be moved to the beginning of the paragraph.

5. Mr. PILLAI (Country Rapporteur) said that the paragraph was intended to convey the Committee's surprise at the stance adopted by the authorities of Botswana, namely that national laws could ever anticipate or foreshadow the Convention.

6. Mr. AMIR said that the formulation "should reconsider its position" seemed overly categorical; perhaps "strengthening its efforts" would be more appropriate.

7. Mr. SHAHI, supported by Mr. TANG Chengyuan, proposed that the paragraph should be redrafted to read "In the view of the Committee, the Constitution and laws adopted in Botswana do not seem to fully respond to the requirements of the Convention. It recommends that the State party ensure that the Convention is comprehensively incorporated into domestic law. The Committee also reminds the State party that the adoption of programmes and strategies to ensure the practical implementation of the Convention is necessary."

8. Mr. RESHETOV said that programmes and strategies were not really germane to the issue of the requirements of the Convention.

9. Mr. PILLAI (Country Rapporteur) said that it was always important to urge a State party to put in place practical measures designed to give effect to the Convention.

10. Paragraph 7, as amended, was adopted.

Paragraph 8

11. Paragraph 8 was adopted with minor drafting changes.

Paragraph 9

12. Mr. THORNBERRY said that the word "enables" should be replaced by "permits".

13. Paragraph 9, as orally amended, was adopted.

Paragraph 10

14. Mr. ABOUL-NASR said that it was his understanding that the Basarwa/San people numbered just a few hundred. The amount of space devoted to them in paragraphs 10 and 13 seemed to overdramatize the situation of a very small group.

15. Mr. PILLAI (Country Rapporteur) said that paragraph 10 focused on the general situation in law, whereas paragraph 13 concentrated more on the resettlement programme imposed on the Basarwa/San people.

16. Paragraph 10 was adopted.

Paragraph 11

17. Mr. PILLAI (Country Rapporteur), at the suggestion of Mr. Thornberry, proposed that the last sentence should be be reworded to read "as well as on sentences for the guilty and remedies provided to the victims".

18. Paragraph 11, as amended, was adopted.

Paragraph 12

19. Paragraph 12 was adopted.

Paragraph 13

20. Mr. ABOUL-NASR proposed that the paragraph should be toned down by removing the references to "deep concern" and "strongly recommends". The Committee's concerns were out of all proportion to the size of the Basarwa/San population.

21. Mr. PILLAI (Country Rapporteur) said he was confident that the Government of Botswana would take the necessary steps to rectify the problem referred to in paragraph 13. Accordingly he could accept Mr. Aboul-Nasr's proposal to tone down the language, and he also proposed deleting the second sentence. As to the size of the Basarwa/San population, the State party had not carried out a census and reliable data was lacking.

22. Mr. SHAHI said that representatives of non-governmental organizations (NGOs) had informed him that there were approximately 50 Basarwa/San still present in the Central Kalahari Game Reserve. Several hundred had been resettled in other parts of the country. The original population had probably numbered a few thousand.

23. Mr. THIAM said that the size of the population was not the issue; the Basarwa/San were a nomadic people and it was therefore very difficult to quantify them. The Committee should focus on protecting their rights.

24. Paragraph 13, as amended, was adopted.

Paragraph 14

25. Paragraph 14 was adopted.

Paragraph 15

26. The CHAIRMAN, following suggestions from Mr. Pillai and other members, suggested that the first sentence should be redrafted to read "The Committee is concerned that HIV/AIDS affects all the population of Botswana, etc."

27. Mr. ABOUL-NASR said that if HIV/AIDS affected everybody, why single out women in the last sentence?

28. Mr. THIAM said that women were a particularly vulnerable group owing to polygamy, prostitution and rape, and it was right that the Committee should draw attention to their specific situation.

29. Mr. TANG Chengyuan said that it was unclear how the paragraph as a whole related to the subject of racial discrimination. Surely the Committee on the Elimination of Discrimination against Women (CEDAW) would be better placed to take up the cause of women.

30. Mr. PILLAI (Country Rapporteur) said that, according to United Nations agencies working in Botswana, HIV/AIDS affected various groups of the population in different ways, thereby justifying the Committee's concern.

31. Paragraph 15, as amended, was adopted.

Paragraph 16

32. Mr. RESHETOV said that the meaning of the phrase "independent inquiries" was not clear. Considering that the Committee had no power to order an "independent" inquiry, perhaps a vaguer word such as "thorough" could be used. In the first sentence, "local police officers" could be shortened to "local police". And the second sentence should speak of "law enforcement officials" and "elimination of racial discrimination".

33. Mr. PILLAI (Country Rapporteur) said he took the meaning to be "independent of the police", although he had no objection to the word "thorough".

34. Paragraph 16, as amended, was adopted.

Paragraph 17

35. The CHAIRMAN suggested that the last part of the first sentence should be redrafted to read "recommends that repatriation be effected only when voluntary".

36. Paragraph 17, as amended, was adopted.

Paragraph 18

37. Paragraph 18 was adopted.

Paragraph 19

38. Mr. HERNDL proposed that the word "suggests" should be replaced by the word "recommends".

39. Paragraph 19, as amended, was adopted.

Paragraphs 20 to 22

40. Paragraphs 20 to 22 were adopted.

41. Mr. YUTZIS proposed that an additional paragraph should be added before paragraph 21, which would read:

> "With regard to the difficulties indicated by Botswana in preparing its reports, the Committee recommends that the State party should use to that effect the technical assistance services provided by the Office of the United Nations High Commissioner for Human Rights."

42. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee endorsed Mr. Yutzis' proposal.

43. It was so decided.

44. The draft concluding observations concerning the sixth to fourteenth periodic reports of Botswana as a whole, as amended and with the addition of one paragraph, were adopted.

Draft concluding observations concerning the seventh to fourteenth periodic reports of Mali (document without a symbol, distributed in the meeting room in French only)

45. Mr. de GOUTTES (Country Rapporteur) said that the text before the Committee had been revised to incorporate written suggestions made by Mr. Thiam.

46. The CHAIRMAN said that the two sub-headings "Principal subjects of concern" and "Suggestions and recommendations" should be deleted and replaced by one sub-heading "Concerns and recommendations", in accordance with the Committee's current standard procedure.

47. It was so decided.

Paragraph 1

48. The CHAIRMAN suggested that the words "seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and fourteenth" should be replaced by "seventh to fourteenth".

49. Paragraph 1, as amended, was adopted.

Paragraph 2

50. Mr. de GOUTTES (Country Rapporteur) said that a minor drafting change was required: the date "February 2000" in the last sentence should be amended to read "August 2001".

51. Mr. ABOUL-NASR, supported by Mr. PILLAI and Mr. AMIR, said that it was unnecessary to mention in the third sentence that the Committee regretted the absence of delegates from the capital during consideration of the State party's report. Many poor countries could not afford to send representatives from the capital and instead sent delegates from their permanent missions based in Geneva.

52. Mr. HERNDL said that he was largely in favour of retaining the last part of the third sentence, as the Committee usually noted the presence of a high-ranking delegation and was justified in noting the absence of one. States parties should be made aware that sending delegates from the capital facilitated dialogue. However, he would not object to deleting the phrase, if the Committee so wished.

53. The CHAIRMAN suggested that the paragraph should be retained as it stood, with the minor drafting change proposed by Mr. de Gouttes.

54. Paragraph 2, as amended, was adopted.

Paragraph 3

55. Mr. RESHETOV said that the entire paragraph should be deleted, as it did not refer to a concrete problem and would apply to most countries of the world.

56. Mr. KJAERUM said he agreed with the previous speaker, although such comments were sometimes particularly applicable to the least developed countries.

57. The CHAIRMAN suggested that the paragraph should be retained, as Mali was one of the poorest countries in the world and its serious economic situation impeded implementation of the Convention. He suggested deleting the phrase "bearing in mind the ethnic, religious, linguistic and cultural diversity", as diversity should not be considered a difficulty.

58. Mr. THIAM said that Mali had one of the best human rights records in West Africa; the Committee should acknowledge at some point in the draft concluding observations the efforts that had been made to implement the Convention, as well as recognize that economic difficulties were hindering progress.

59. Mr. de GOUTTES (Country Rapporteur) said that the paragraph was favourable to the State party as it highlighted the fact that Mali's extreme poverty was hindering implementation of the Convention.

60. The CHAIRMAN said he took it that the Committee wished to adopt the paragraph.

61. Paragraph 3, as amended, was adopted.

Paragraph 4

62. The CHAIRMAN noted that comments about the quality of the report were generally included in the introductory paragraph.

63. Mr. de GOUTTES (Country Rapporteur) said the fact that Mali's report provided information about the settlement of the situation in the north of the country was a positive aspect.

64. Paragraph 4 was adopted.

Paragraph 5

65. Mr. RESHETOV suggested that the first sentence should be deleted and the second sentence should be amended accordingly to begin: "The Committee notes with satisfaction that ...".

66. Paragraph 5, as amended, was adopted.

Paragraphs 6 and 7

67. Paragraphs 6 and 7 were adopted.

Paragraph 8

68. Mr. de GOUTTES (Country Rapporteur) said that the first sentence had been amended to incorporate some minor drafting changes suggested by Mr. Thiam. The word "discrimination" should be replaced by "inequalities".

69. Mr. RESHETOV said that the first sentence should end at "... rural populations" and the first part of the second sentence should be deleted, so that the sentence would begin "It regrets ...".

70. Paragraph 8, as amended, was adopted.

Paragraph 9

71. Mr. THIAM said that it would be more appropriate to say "requests further information" than "regrets the lack of sufficient information", as it was clear that ethnic minorities were represented in public bodies.

72. Mr. RESHETOV suggested that the last part of the sentence should be deleted, as the Committee had never before made reference to the ethnic composition of human rights bodies.

73. Paragraph 9, as amended, was adopted.

Paragraph 10

74. Mr. de GOUTTES (Country Rapporteur) said that the paragraph had been reformulated to read:

> "Noting the efforts made by the State party to improve the situation of women and children, the Committee continues to be concerned by the very high number of female circumcisions performed in Mali."

75. Mr. ABOUL-NASR said he wondered whether the issue fell within the scope of the Convention.

76. The CHAIRMAN suggested that paragraph 10 should be deleted.

77. Mr. YUTZIS said that female circumcision was an instance of double discrimination; if that paragraph were dropped, it would be essential to retain mention of that practice in paragraph 15.

78. Mr. THIAM said that genital excision was not discriminatory, because all Malian women had the procedure. The problem, of course, was that both parents and practitioners believed in its virtues. African countries were receiving financial assistance from international organizations for programmes designed to eliminate it. In particular, efforts were being made to persuade practitioners to learn other trades. That was a sensitive subject, and not all countries were yet willing or able to legislate against it.

79. Mr. de GOUTTES (Country Rapporteur) said that it was important to request the Government to inform the Committee of measures it was taking to combat genital excision.

80. The CHAIRMAN said the Committee would revert to that matter in its discussion of paragraph 15.

81. Paragraph 10 was deleted.

Paragraph 11

82. Paragraph 11 was adopted.

Paragraph 12

83. Mr. THIAM suggested that the words "notes with concern" should replace the word "regrets".

84. Paragraph 12, as amended, was adopted.

Paragraph 13

85. Paragraph 13 was adopted.

Paragraph 14

86. The CHAIRMAN suggested that paragraph 14 should be inserted after paragraph 8. The paragraphs would be renumbered accordingly.

87. It was so decided.

88. Paragraph 14 was adopted.

Paragraph 15

89. Mr. SICILIANOS proposed that the following phrase should be inserted at the end of the first sentence: "taking into consideration in particular the Committee's General Recommendation No. XXV on gender-related dimensions of racial discrimination and the relevant provisions of the Durban Declaration and Programme of Action.

90. The CHAIRMAN said that he supported that amendment, although he would prefer to delete the words "in particular". He had doubts, however, about the second sentence.

91. Mr. AMIR suggested that the first sentence should begin with the phrase added by Mr. Sicilianos, and end with the words "children and women".

92. Mr. de GOUTTES (Country Rapporteur) said that the contents of the second sentence could be incorporated into the list of questions contained in paragraph 16.

93. It was so decided.

94. Paragraph 15, as amended, was adopted.

Paragraph 16

95. Mr. de GOUTTES (Country Rapporteur) proposed that a new subparagraph (a) should be inserted, and should read: "The measures adopted to eradicate the practice of female excision". The following subparagraphs would be renumbered accordingly.

96. Mr. SICILIANOS proposed that subparagraph (c) should be made into a separate paragraph, beginning with the words, "The Committee would also like information on", and ending with the words, "and taking into consideration as well the Committee's General Recommendation No. XXIX.

97. The CHAIRMAN suggested that the sentence should begin with the phrase, "Taking into consideration," and end with the phrase, "discrimination on the basis of descent".

98. It was so decided.

99. Mr. ABOUL-NASR said that terms such as "sinangouya", in subparagraph (e) were incomprehensible, and should not be included in a document to be read by the General Assembly.

100. Mr. de GOUTTES observed that the words "sinangouya" and "brotherhood of jest" appeared in paragraph 156 of the report. Furthermore, there had been considerable discussion of that matter.

101. Mr. THIAM noted that African caste systems were different from those existing in other parts of the world. The problem was that castes were exclusive and closed, and that it was impossible to move from one caste to another. In his view, the Committee should request the State party to provide information on any legal measures it had taken to eliminate that practice.

102. Mr. SICILIANOS said that, although the concluding observations would be included in the Committee's report to the General Assembly, they were first and foremost for use by the State party. And Mali surely knew the meaning of those terms.

103. The CHAIRMAN said he took it that the Committee wished to adopt paragraph 16 as amended, adding a new subparagraph (b), and transforming subparagraphs (c) and (d) into separate paragraphs.

104. It was so decided.

105. Paragraph 16, as amended, was adopted.

Paragraph 17

106. Mr. ABOUL-NASR proposed that the two subjects covered by the paragraph, the optional declaration under article 14 and the amendment to article 8, should be dealt with in separate paragraphs.

107. The CHAIRMAN said he took it that the Committee wished to proceed as proposed.

108. It was so decided.

Paragraph 18

109. Mr. ABOUL-NASR said that the word "national" should be inserted before the word "NGOs".

110. Mr. VALENCIA said it was unclear what was meant by the term, "other associations".

111. Mr. SICILIANOS said that it might be useful to include the term, "national human rights institutions".

112. Mr. KJAERUM said he did not agree that the State party should be limited to consulting national NGOs. The question might arise, for instance, whether Save the Children was a national or international NGO.

113. The CHAIRMAN said that, in his view, a State party should not request international NGOs to help in the preparation of a report to the Committee.

114. Mr. THORNBERRY said that "other associations" could include university institutions and research institutes, which could play an important role in the formulation of the report.

115. Mr. de GOUTTES (Country Rapporteur) proposed that the phrase "national NGOs and other associations" should be replaced by the phrase "national institutions and non-governmental organizations". It was for the State party to decide whether it wished to consult international organizations as well as national ones.

116. Mr. PILLAI said he preferred the term "institutions". In addition, specifying that national NGOs should be involved in the preparation of the report did not prevent the State party from consulting international NGOs as well.

117. After an exchange of views on whether or not the national nature of the institutions or non-governmental organizations concerned should be specified, the CHAIRMAN said it appeared that the Committee did not wish to include the word "national".

118. Mr. SHAHI said that the Committee should be less prescriptive in its recommendations. As it was for the Government of Mali to decide precisely which organizations should be involved in the preparation of its periodic reports, he was in favour of referring simply to "non-governmental organizations", without mentioning institutions of any sort, as in the concluding recommendations on the thirteenth and fourteenth periodic reports of Canada.

119. Mr. RESHETOV suggested that the Committee should formulate a standard text on the subject for use at its next session.

120. Mr. de GOUTTES (Country Rapporteur) proposed that, in the absence of a standard text, paragraph 19 should be replaced by the following text, which formed paragraph 31 of the concluding recommendations on the thirteenth and fourteenth periodic reports of Canada:

> "The Committee suggests to the State party that it consult with non-governmental organizations in the process of the elaboration of its periodic reports. It further recommends that these reports be made widely available to the public from the time they are submitted, and that the Committee's concluding observations be similarly publicized."

121. Paragraph 19, as amended, was adopted.

Paragraph 20

122. Mr. VALENCIA RODRÍGUEZ queried the reference to "methodological recommendations".

123. The CHAIRMAN said that the reference was to the Committee's guidelines and that the final text would use the Committee's usual wording, as well as specify an appropriate date for submission of the State party's next periodic report.

124. On that understanding, paragraph 20 was adopted.

125. The draft concluding observations concerning the seventh to fourteenth periodic reports of Mali as a whole, as amended, were adopted subject to minor drafting changes.

126. Mr. YUTZIS said that his copy of the first draft of the concluding observations on the reports of Mali included an apology that the observations were available "in French only". If an apology was necessary in that case, then one was necessary in all cases in which concluding observations were available in only one of the working languages of the Committee; otherwise, no apology was needed at all.

127. Mr. de GOUTTES said he agreed with Mr. Yutzis. In the case of the concluding observations on Mali, there was certainly no need for any apology, as Mali was a French-speaking country and the Country Rapporteur was also French-speaking. He pointed out that members of the Committee whose mother tongue was not English often had difficulties when the concluding observations were in English, and he expressed a general reservation on the adoption of such observations, as they were adopted before a definitive text was available in the other working languages.

128. Ms. PROUVEZ (Secretary of the Committee) took note of the speakers' comments and apologized for the inadvertent inclusion of the apology, which had been addressed to those Committee members who spoke no French.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2)

Decision No. 1 (61), on the establishment of a pre-sessional working group (CERD/C/61/Misc.28)

129. Mr. LINDGREN ALVES expressed his strong opposition to the decision, although he would not go so far as to demand a vote on it.

130. Mr. VALENCIA RODRÍGUEZ said that the Committee could not adopt the decision until it had received information on the financial implications of the decision.

131. The CHAIRMAN said his understanding was that the Committee could adopt the decision provided that the information on the financial implications was made available to the General Assembly when the decision was submitted to it for approval.

132. Mr. HERNDL pointed out that rule 25 of the Committee's rules of procedure specifically stated that no proposal which involved expenditure could be approved by the Committee until an estimate of the costs involved had been prepared and circulated to Committee members.

133. The CHAIRMAN said that the costs involved would be five days of per diem for five members, or approximately 10,000 Swiss francs.

134. Mr. BOSSUYT said that, even allowing for the further costs of conference services, the financial implications of establishing the working group were not exorbitant. However, he had serious doubts about how useful a contribution such a working group could make to the work of the Committee, given that not all country rapporteurs would be invited to attend its meetings.

135. Mr. PILLAI proposed that the Committee should request the Secretariat to provide information on the financial implications and should postpone its discussion of the decision until its following session.

136. The CHAIRMAN suggested that, in addition to Mr. Pillai's proposal, the wording in paragraph 3 should be amended to reflect the fact that, if the working group was established, it would meet for the first time in 2003.

137. It was so decided.

Decision No. 2 (60), on the holding of a session of the Committee in New York (CERD/C/61/Misc.31)

138. Mr. HERNDL proposed that, in paragraph 1, the Committee should request that one of its sessions should be held at United Nations Headquarters in 2003 or 2004, in order to allow the Committee on Conferences some flexibility in scheduling such a session. He also pointed out a small mistake in the attached explanatory note: the reference in the first line should be to the Committee's decision No. 2 (60).

139. Mr. de GOUTTES said that he had reservations about the decision, but would not oppose it.

140. The CHAIRMAN suggested that the phrase "taking into account the explanatory note attached" should be added to the end of paragraph 2.

141. Decision No. 2 (60), as amended, was adopted.

The meeting rose at 1 p.m.